



IDAHO
STATE DEPARTMENT OF EDUCATION

2019 Proposed Amendments to the Special Education Manual



Supporting Schools and Students to Achieve

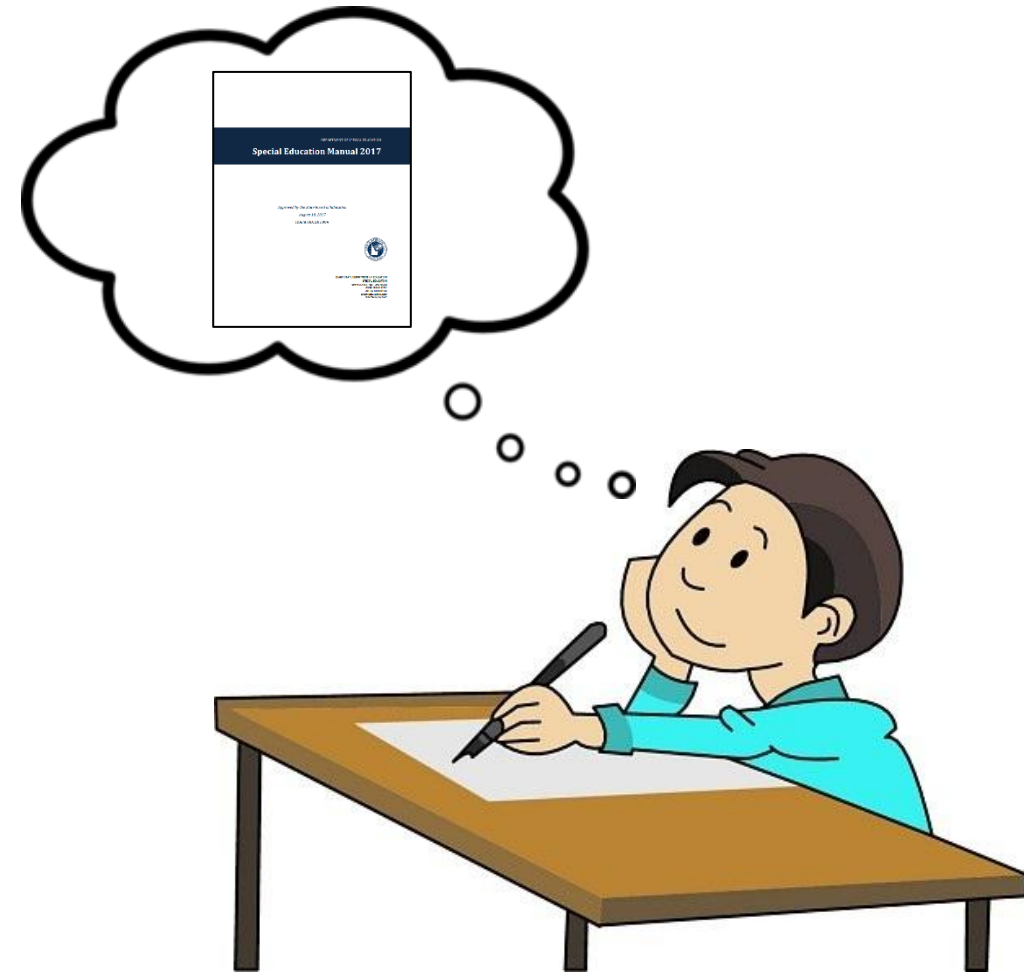
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4/12/2018

Agenda



- 1) Review the process
- 2) Changes for clarity and correct typographic errors
- 3) Substantive changes
- 4) Forms



Review Process



- Highlight proposed changes
- Post on our website
- Comment form
- Review comments
- Present to the State Board of Education
- Another Comment period
- Present to the 2019 Legislative Session



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Clarifications and Definitions



Clarifications and Definitions



1. Removal of Acknowledgements
2. Clean up acronyms and abbreviations
 - Remove terms not used in Manual
3. Glossary Terms
 - Updated to reflect current uses
 - Define some terms
 - Day-calendar, school, business



Glossary



Alternate assessment. ~~A specific assessment, developed by the state in lieu of statewide assessments or by the district in lieu of districtwide assessments, designed to measure functional skills within the same domains required by the regular statewide or district wide assessments. It is designed for students who are unable to demonstrate progress in the typical manner and who meet the state-established criteria.~~ An academic assessment based on alternate academic achievement standards that have been reduced in depth and complexity from the Idaho Content Standards. The alternate assessment (AA) is intended only for those students with the most significant cognitive impairments, representing about 1% of the total student population.

Significant cognitive impairment. A designation given to a small number of students with disabilities for the purposes of their participation in AAs. Having a significant cognitive impairment is not solely determined by an IQ test score, nor based on a specific disability category, but rather a complete understanding of the complex needs of a student.



Substantive changes



Ch. 2 - Section 2: Provision of FAPE (pg.20)



C. When District Obligation to Provide FAPE Ends

The District's obligation to provide FAPE to a student ends:

1. at the completion of the semester in which the student turns twenty-one (21) years old;
2. when the student meets the district requirements and the Idaho Content Standards that apply to all students for receipt of a ~~regular~~ high school diploma; a ~~regular~~ high school diploma does not include an alternative degree that is not fully aligned with the Idaho Content Standards ~~or Idaho Core Standards~~, such as a ~~certificate or a~~ general educational development credential (GED);
3. when the student no longer meets the eligibility criteria for special education services, as determined by the team after a reevaluation; or
4. when a parent/adult student has revoked consent for the continued provision of special education services.

Definition of FAPE



NEW LANGUAGE!

- Endrew F
- ...offer an IEP that is specially designed and reasonably calculated to enable a child to make progress in light of the child circumstances and emphasizing the unique needs of the child
- The educational program must be 'appropriately ambitious'
- With a opportunity to meet challenging objectives

More Endrew F



- Adding to the IEP language that the Team considers the unique circumstances of the child
- Appropriately ambitious
- Roles of IEP Team Meeting members
- Objectives and benchmarks



Ch. 4 – Section 7: State Eligibility Criteria (pg.67)



B. Disability Categories

14. Visual Impairment Including Blindness

State Eligibility Criteria for Visual Impairment: An evaluation team will determine that a student is eligible for special education services as a student with blindness or a visual impairment when all of the following criteria are met:

- b. The student has documentation of blindness or a visual impairment, ~~not primarily perceptual in nature, resulting in measured acuity of 20/70 or poorer in the better eye with correction, or a visual field restriction of 20 degrees~~ as determined by ~~an optometrist or ophthalmologist~~ qualified professional, including one or more of the following:
 - i. **Blindness – visual acuity of 20/200 or less in the better eye with the best possible correction at distance and/or near, or visual field restriction of 20 degrees or less in the better eye;**
 - ii. **Visual Impairment – visual acuity better than 20/200 but worse than 20/70 in the better eye with the best possible correction at distance and/or near, or visual field restriction of 70 degree or less but better than 20 degrees in the better eye;**
 - iii. **Eye condition – including oculomotor apraxia, cortical visual impairment, convergence insufficiency, or other condition;**
 - iv. **Progressive loss of vision which may affect a student's educational performance in the future;**
 - v. **Functional vision loss where acuity or visual field alone may not meet the criteria above.**
- c. The student's ~~physical~~ eye condition, even with correction, adversely affects educational performance.
- d. The student needs specially designed instruction.

Ch. 5 – Individualized Education Programs (pg.79)



In developing each student's IEP, the IEP team shall consider:

- 1) the strengths of the student;
- 2) the concerns of the parents for enhancing the education of their child;
- 3) the results of the initial or most recent evaluation of the student;
- 4) the unique circumstances of the student; and**
- 5) the academic achievement, developmental, and functional needs of the student.



Ch. 5 – Section 1: IEP Initiation (pg.79-80)



A. Purpose of Meeting

The primary purpose of an IEP team meeting is to design an appropriately ambitious IEP that ~~shall meet~~ meets the unique needs of a student with a disability. The IEP team determines the special education and related services reasonably calculated to enable the student to receive educational benefits in the least restrictive environment. The parent/adult student shall be invited to the meeting and participate meaningfully. (Note: transition age students shall be invited to the IEP meeting). The IEP team members should come prepared to discuss specific information about the student's ~~individual needs~~ unique circumstances and the type of services to be provided to address ~~those needs~~ the student's unique circumstances.

The meeting format should invite open discussion that allows participants to identify and consider ~~all~~ the ~~relevant needs~~ unique circumstances of the student related to his or her disability and what is necessary to provide access to, participate in, and make progress in the general education curriculum. Placement decisions shall be considered *after* the special education services are determined and shall not be the determining factor in developing the IEP content.

Ch. 5 – Section 2: IEP Development (pg.87)



C. Present Levels of Academic Achievement and Functional Performance, Goals, and Objectives and Benchmarks/~~Objectives~~

2. Although the content of present levels of academic and functional performance statements are different for each student individual present level of academic and functional performance statements will meet the following requirements:

- a. The statement shall be written in objective, measurable terms ~~and~~ using easy-to-understand, non-technical language;
- b. The other components of the IEP, including special education services, annual goals, and, ~~if applicable~~, objectives and benchmarks ~~/objectives~~ for students who participate in ~~Alternate~~ alternate Assessments assessments (~~AA~~)~~based on Alternate Achievement Standards~~, shall show a direct relationship ~~with~~ to the content of present levels of academic and functional performance;
- c. The statement shall provide baseline data for goal development;
- d. The statement shall reference ~~general education~~ Idaho Content Standards, ~~or Idaho Core Standards~~ or Idaho Workplace Skills Career Readiness Standards, ~~Employability Skills for Career Ready Practice~~, Idaho Core Content Connectors and Extended Science Standards, or Idaho Early Learning Guidelines (eGuidelines), as applicable;
- e. ~~The~~ a statement ~~of~~ shall include the student's strengths and needs;
- f. The statement shall include parental concerns for enhancing the student's education; and
- g. ~~The~~ a statement shall address how a student's disability affects his or her involvement and progress in the general education curriculum (i.e., the same curriculum used by students without disabilities).

Ch. 5 – Section 2: IEP Development (pg.87-88)



C. Present Levels of Academic Achievement and Functional Performance, Goals, and Objectives and Benchmarks/~~Objectives~~

3. Annual IEP goals shall be appropriately challenging and reflect the needs described in the present levels of academic and functional performance statements. Measurable academic achievement, developmental, and functional annual goals are designed to meet the student's unique needs that result from the student's disability, to enable the student to be involved in and make progress in the general education curriculum, and to meet each of the student's other educational needs that result from the student's disability.

a. A goal is a written, measurable statement, developed from the baseline data, describing what a student is reasonably expected to accomplish within the time period covered by the IEP, generally one year.

b. Goals are written to enable the student to be involved in and make progress in the general education curriculum and to meet other educational needs that result from the disability.

c. A goal shall be appropriately challenging given the circumstances of the student and include the behavior, the performance criteria, and the evaluation procedure.

4. Objectives and benchmarks are required for students taking ~~Alternate Assessments~~AAs. ~~based on Alternate Achievement Standards, a description of benchmarks or short-term objectives. The district has the discretion which benchmarks/objectives as described in this paragraph for all students eligible for IEP services to use.~~ Objectives and benchmarks shall align with the present levels of academic achievement and functional performance and the annual goal, as a progression toward meeting the annual goal

Ch. 5 – Section 2: IEP Development (pg.96-97)



G. Statewide and Districtwide Achievement Testing

Section 1111(b)(2) of the Every Student Succeeds Act (ESSA) requires that ~~includes requirements~~ all students participate in statewide assessments.

~~This means that~~ Students with disabilities ~~are to be included~~ shall participate in all state ~~-wide~~ and district-wide assessments. Participation rates and performance data, both aggregate and disaggregate, for students with disabilities are reported to the public annually.

The IEP team shall determine how the student will participate in state ~~-wide~~ and district- wide assessments: —without accommodations, with supports and accommodations, ~~with adaptations~~, or by means of the alternate assessment (AA). The IEP team determines what the supports and accommodations ~~and/or adaptations to~~ a student will use based on those that are used regularly by the student during instruction or classroom testing and on what is ~~listed~~ documented in the accommodations section of the IEP.

~~The IEP team shall determine whether the student meets the state criteria for the alternate assessment. It should be noted that some students might participate in parts of the regular assessment and parts of the alternate assessment. For example, a student may participate with accommodations in the regular reading portion of the statewide assessment and may participate in the math portion of the statewide assessment using the alternate assessment.~~

Ch. 5 – Section 2: IEP Development (pg.97)



G. Statewide and Districtwide Achievement Testing

The following guidelines shall be used to determine how the student will participate in statewide and district wide assessments:

1. ~~Regular~~ General Assessment without Accommodations

The IEP team determines and documents in the IEP that a student with a disability can adequately demonstrate his or her knowledge, abilities, or skills on ~~statewide~~ state and districtwide assessments without accommodations.

2. ~~Regular~~ General Assessment with Supports and Accommodations

Appropriate supports and accommodations for students with disabilities shall be based on the individual needs of each student. Supports and accommodation decisions are made by the IEP team and shall be recorded in the IEP. accommodations should facilitate an accurate demonstration of academic achievement, developmental, and functional performance on state and district-wide assessments. They should not provide the student with an unfair advantage or change the underlying skills that are being measured by the test. Supports and accommodations shall be the same or nearly the same as those used by the student in completing classroom assignments and assessment activities. The supports and accommodations shall be necessary for enabling the student to demonstrate knowledge, ability, skill, or mastery of academic content. Accommodations *do not* invalidate test results. This is the only other place that mastery is used and does not reference goals. It is not intended to measure a student's mastery of IEP goals.

Ch. 5 – Section 2: IEP Development (pg.97-98)



G. Statewide and Districtwide Achievement Testing

~~3. Regular Assessments with Adaptations~~

~~A student may be unable to demonstrate what he or she knows or is able to do without using an adaptation. However, an adaptation inherently circumvents the underlying skills that the test is measuring; therefore, an adaptation *always* invalidates the assessment result. If an adaptation is included in the IEP for statewide and/or district wide assessments, it shall be one that the student uses in completing classroom assignments and assessment activities on a regular basis. Further, the use of an adaptation in statewide and district wide assessments shall be clearly coded on the student's score sheet.~~

~~The IEP team has the authority to make the decision that a student needs an adaptation in order to participate in statewide and district wide assessments, even though the adaptation *will* cause the student to score as "not proficient" and to be counted as NOT participating in the assessment under AYP determinations. All IEP team members, including the parent/adult student, shall understand (a) the possible consequences that could result from this decision and (b) its effect on diploma options and post school activities involving education, career opportunities, military service, and community participation.~~

Ch. 5 – Section 2: IEP Development (pg.98)



G. Statewide and Districtwide Achievement Testing

~~4.~~ 3. Alternate Assessments based on Alternate Academic Achievement Standards (AAs)

AAs are a statewide testing option intended only for those students with the most significant cognitive impairments, in lieu of the general education assessment, with or without supports and accommodations. Participation in AAs reflects the pervasive nature of a significant cognitive impairment and requires that a student meet all participation criteria. Students with the most significant cognitive impairments represent about 1% of the total student population.

The IEP team shall consider a student's participation AAs on an annual basis using the participation criteria listed below. The IEP team shall document the student's testing status in the appropriate sections of the IEP.

~~a. Student eligible to Take Alternative Assessments based on Alternate Achievement Standards.~~ A student must meet all four of the following participation criteria to qualify for the AA.

~~The IEP team shall find that the student, meets all of the criteria listed below to determine that he or she is eligible to participate in the alternate assessment:~~

Ch. 5 – Section 2: IEP Development (pg.98)



G. Statewide and Districtwide Achievement Testing

- 1) The student ~~'s demonstrated cognitive ability and adaptive behavior prevent completion of the general academic curriculum even with program accommodations and/or adaptations;~~ has a significant cognitive impairment.
 - a) The student has a disability or multiple disabilities that significantly impact their adaptive skills and intellectual functioning.
 - b) The student demonstrates academic and adaptive skills at a level substantially lower than that of other peers with disabilities.
 - c) The student has adaptive skills well below average in two or more skill areas and intellectual functioning well below average (typically associated with an IQ below 55).
 - d) Identifying a student as having a cognitive impairment does not mean the student automatically meets the criteria to participate in AAs.
- 2) The student ~~'s course of study is primarily functional skill and living skill-oriented (typically not measured by State or district assessments); and is~~ receiving academic instruction that is aligned with Idaho Core Content Connectors and Extended Science Standards.
 - a) The student's instruction and IEP goals/objectives/benchmarks address knowledge and skills that are appropriate and challenging for the student.
- 3) The student ~~'s course of study is primarily adaptive skills oriented, typically not measured by state or district assessments is unable to acquire, maintain, or generalize skills in multiple settings and to demonstrate performance of these skills without intensive and frequent individualized instruction.~~
 - a) Adaptive skills are essential to living independently and functioning safely in daily life, and include, but are not limited to motor skills, socialization, communication, personal care, self-direction, functional academics, and personal health and safety.
- 4) The student requires extensive direct individualized instruction and substantial supports to achieve measurable gains in the grade- and age-appropriate curriculum.
 - a) The student consistently requires individualized instruction in core academic and adaptive skills at a substantially lower level relative to other peers with disabilities.
 - b) It is extremely difficult for the student to acquire, maintain, generalize, and apply academic and adaptive skills in multiple settings, across all content areas, even with high-quality extensive/intensive pervasive, frequent, and individualized instruction.
 - c) The student requires pervasive supports, substantially adapted materials, and individualized methods of accessing information in alternative ways to acquire, maintain, generalize, demonstrate, and transfer skills across multiple settings.

Ch. 5 – Section 2: IEP Development (pg.98)



G. Statewide and Districtwide Achievement Testing

~~b) Students Not Eligible To Take Alternative Assessments Based On Alternate Achievement Standards~~

b) Students ~~are not to be included~~ shall not qualify to participate in Alternate Achievement Standards ~~for~~ solely based on any of the following reasons:

- ~~1. The only determining factor is that the student has an IEP;~~
- ~~2. The student is academically behind because of excessive absences or lack of instruction; or~~
- ~~3. The student is unable to complete the general academic curriculum because of socioeconomic or cultural differences.~~

1. Having a disability
2. Poor attendance or extended absences
3. Native language/social, cultural or economic difference
4. Expected poor performance or past basic/below basic performance on the regular education assessment
5. Academic and other services student receives
6. Educational environment or instructional setting
7. Percent of time receiving special education services
8. English Language Learner (ELL) status
9. Low reading level/achievement level
10. Anticipated disruptive behavior
11. Impact of student scores on the accountability system
12. Administration decision
13. Anticipated emotional distress
14. Need for accommodations (e.g., assistive technology/AAC) to participate in the assessment

Ch. 5 – Section 2: IEP Development (pg.100-101)



K. Additional Transition Components for Secondary-Level IEPs

The following are required components for all secondary students receiving special education services.

1. Beginning with the IEP to be in effect when a student is sixteen (16) years old (or younger if determined appropriate by the IEP team), the IEP shall include:
 - a. present levels of academic and/or functional performance and a functional vocational evaluation where appropriate; ~~based on an average age appropriate transition evaluation~~;
 - b. appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;
 - c. transition services, including a course ~~courses~~ of study, that will reasonably enable the student in reaching postsecondary goals identified on the IEP which may include postsecondary education and training, employment and career counseling, community participation, independent living or adult services;
 - ~~d. If appropriate,~~ evidence that the student was invited to the IEP team meeting where transition services are to be discussed; if the student does not attend the IEP meeting, the IEP team must take other steps to ensure the student's preferences and interests are considered;
 - e. evidence that a representative of any participating agency was invited to the IEP team meeting with a prior consent of the parent or student who has reached age of majority; and
 - f. the graduation requirements for the student receiving special education services. Refer to Chapter 7 for more detailed information on documentation of high school graduation in the IEP.

The postsecondary goals and transition services shall be updated on the IEP annually.

2. Not later than the student's seventeenth (17th) birthday, the IEP shall include a statement that the student and parent has been informed whether or not special education rights will transfer to the student on his or her eighteenth (18th) birthday. Special education rights will transfer from the parent to the student when the student turns eighteen (18) years old unless the IEP team determines that:
 - a. the student is unable to provide informed consent with respect to his or her special education program; or
 - b. the parent has obtained legal guardianship.
3. When a student exits from special education as a result of complying with the Idaho Content Standards and such applicable district graduation requirements ~~earning a regular diploma~~ or aging out, the district shall provide the student with a summary of his or her academic achievement and performance along with recommendations concerning how to assist the student in meeting postsecondary goals.

Ch. 7 - Section 1. Discontinuation of Services (pg.117)



A. Students Who Are No Longer Entitled to Services

2. Student Completes Requirements for a ~~Regular~~ High School Diploma

The district's obligation to provide special education services ends when the student meets the district and State requirements that apply to all students for receipt of a ~~regular~~ high school diploma without adaptations. Although this is considered a change of placement, a reevaluation is not required. Prior to graduation and the discontinuation of special education services the district shall:

- a. provide the parent/adult student with written notice of the district's obligation to provide special education services ends when the student has met the Idaho High School Graduation and such applicable district requirements ~~obtains a regular high school diploma~~ ; and
- b. provide the parent/adult student with a written summary of academic achievement and functional performance which shall include recommendations to assist the student in meeting his or her postsecondary goals. This summary is known as the Summary of Performance (SOP).

3. Student Reaches Maximum Age

For students who have not yet met ~~their~~ the Idaho High School graduation and such applicable district's ~~high school~~ graduation requirements, the district's obligation to provide special education services ends at the completion of the semester in which the student turns twenty-one (21) years of age. This is considered a change of placement that does not require a reevaluation. If a student is turning twenty-one (21), the district shall: Should we reference specific document form?

Ch. 7 – Section 2: Graduation (pg.119)



Section 2. Graduation

Graduation means meeting district and State requirements for receipt of a ~~regular~~ high school diploma. If a student is not granted a high school diploma or if the high school diploma is granted based on completion of adapted graduation requirements, the student is entitled to receive a free appropriate public education (FAPE) through the semester in which he or she turns twenty-one (21) years of age or determined no longer eligible as a result of a reevaluation . A General Education Development (GED) certificate does not meet the Idaho Content Standards and district requirements that are comparable to a ~~regular~~ high school diploma. The IEP team considering a student with a disability's graduation from high school ~~making these decisions~~ shall include a district representative knowledgeable about Idaho Content Standards ~~State~~ and such applicable district ~~local~~ graduation requirements.

Ch. 7 – Section 2: Graduation (pg.120)



A. Individualized Education Program (IEP) Team Requirements Regarding Graduation

b. Graduation Requirements with Adaptations

Long-term consequences for the student shall be considered when adaptations are made to graduation requirements. Further:

- 1) Adaptations to graduation requirements shall specifically address completion of the student's secondary program.
- 2) Adaptations may alter the level of rigor required in the district or State graduation requirements. Examples of adaptations include changes made to course content, objectives, or grading standard that alter the level of rigor but will not include exempting or excluding the student from an opportunity to pursue or meet the Idaho Content Standards.
- ~~3) Adaptations of any district or State graduation requirement shall be stated on the student's IEP. The team shall discuss with the parents the effect of adaptations on regular education diploma and FAPE~~

Ch. 7 – Section 2: Graduation (pg.120)



A. Individualized Education Program (IEP) Team Requirements Regarding Graduation

~~5. Demonstration of Proficiency of State Content Standards IDAPA 08.02.03.105.06) requires that each student achieve a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test (ISAT) in math reading and language usage in order to graduate.~~

~~Each student's IEP will include a statement of how the student will demonstrate proficiency on the Grade 10 Idaho Standards Achievement Test as a condition of graduation. If the method to demonstrate proficiency is different than meeting proficient or advanced scores on the high school ISAT or the ISAT-Alt, a student with an IEP may meet this requirement by:~~

- ~~a. achieving the proficient or advanced score on the Idaho Standard Achievement Test (ISAT) or, for eligible students, on the Idaho Standard Achievement Test – Alternate (ISAT-Alt); or~~
- ~~b. demonstrating proficiency on the content standards through some other locally established plan; or~~
- ~~c. having an IEP that outlines alternate requirements for graduation or documents assessment adaptations (adaptations that will invalidate the assessment score).—~~

Ch. 7 – Section 2: Graduation (pg.120-121)



B. Graduation Ceremonies

A special education student who completes his or her secondary program through meeting graduation requirements or criteria established on his or her IEP will be afforded the same opportunity to participate in graduation ceremonies, senior class trips, etc., as students without disabilities. ~~It should be noted the~~ Participation in a graduation ceremony does not mean that the student will receive a ~~in and of itself, equate to the receipt of a regular~~ high school diploma or indicate the completion of a secondary program.

Ch. 7 – Section 3. Transcripts and Diplomas (pg.121)



B. Diploma

1. For students who are eligible for special education services, the district will use the high school ~~a regular~~ diploma at the completion of their secondary program through meeting graduation requirements or criteria established on his or her IEP ; this includes students who meet the graduation requirements with accommodations and/or adaptations.

Ch. 9 - Private Schools (pg. 137-138)



1. Clarifying the compliance with the consultation process
2. Removing the forms from the Manual
 - Cleaning up the forms and adding a notification of consultation process



Ch. 10 – Section 1: Monitoring Priorities and Indicators (pg.155)



~~IDEA requires increased accountability for programs serving students with disabilities. Monitoring priorities include both performance and compliance goals. Accountability areas established by IDEA include a free appropriate public education (FAPE) in the least restrictive environment (LRE), Effective General Supervision, and Disproportionality. Each priority area encompasses specific performance indicators. These indicators include both performance and compliance components. Data on those indicators shall be collected, submitted to the State Department of Education (SDE), and publicly reported annually. That data shall be used to evaluate the effectiveness of programs and identify strategies to improve student outcomes.~~

The Idaho State Department of Education (SDE), is responsible for the design and implementation of a system of general supervision that monitors the fulfillment of the Individuals with Disabilities Education Act (IDEA) of 2007. The activities under the Idaho Special Education Results Driven Accountability (RDA) Monitoring System monitor local education agencies (LEAs) for results and compliance. Based on stakeholder input, the monitoring system includes a focus on providing supports to LEAs to meet the requirements of IDEA.

The Guiding Principles of the Results Driven Accountability Monitoring System are:

- A. Improving educational results and functional outcomes for all students with disabilities, and ensuring that Idaho meets the program required by IDEA, with a particular emphasis on those requirements that are most closely related to improving education results for students with disabilities.
- B. The RDA Monitoring System provides the framework for the SDE to partner with LEAs to be mutually responsible for student outcomes and is designed to guide and support districts in their pursuit of preparing students with disabilities to persevere in life and be ready for college and careers. To meet the general supervision requirements, the SDE will conduct an annual review of each LEA's performance on a pre-identified set of results and compliance indicators and special conditions areas. Data from the annual review will be compiled into the RDA Determination Report.



A. SDE Responsibility

As part of the SDE general supervision responsibilities, the SDE is required to collect, review, and analyze data on an annual basis to determine if the state and districts are making ~~adequate~~ progress toward the required performance goals. This accountability process includes:

1. measuring performance on goals both for the state and the districts;
2. monitoring based on district ~~performance~~ result and compliance data with the IDEA, and progress made toward meeting state goals;
3. identifying districts in one of the following RDA Determination categories: Meets Requirements, Needs Assistance, Needs Intervention, Needs Substantial Intervention;
4. identifying districts in of the following Differentiated Levels of Support categories: Support and Guiding, Assisting and Mentoring, Directing;

Ch. 11 – Section 4: Written Notice (pg. 176)



F. Objection to District Proposal

If a parent/adult student disagrees with an IEP program change or placement change that is proposed by the IEP team, he or she may file a written objection to all or part of the proposed change. The district will respond as follows:

1. If the objection is postmarked or hand delivered within ten (10) calendar days of the date the parent/adult student received the written notice, the changes to which the parent/adult student objects cannot be implemented for fifteen (15) calendar days or as extended through mutual agreement by the district and parent/adult student while the parties work to resolve the dispute.
2. If a proposed change is being implemented during the ten (10) day period and an objection is received, the implementation of that change shall cease.
3. If an objection is made after ten (10) calendar days, the district may continue to implement the change, but the parent/adult student retains the right to exercise other procedures under the IDEA.

Ch. 11 – Section 4: Written Notice (pg. 176)



F. Objection to District Proposal

The parties may resolve a disagreement using methods such as holding additional IEP team meetings, or utilizing SDE Dispute Resolution processes, such as facilitation or mediation. If these attempts fail or are refused, the proposed IEP shall be implemented after fifteen (15) calendar days unless a due process hearing request is filed to obtain a hearing officer's decision regarding the proposed IEP, unless it is an initial IEP. ~~the district may request a due process hearing regarding the proposed change.~~ A parent's/adult student's written objection to an IEP or placement change cannot be used to prevent the district from unilaterally placing the student in an IAES in accordance with the IDEA procedures for discipline of a student or to challenge an eligibility/identification determination.

Ch.13 – Section 1: Facilitation (pg.207)



A. Definition of Facilitation

Facilitation is a voluntary process during which dispute resolution contracted individual or individuals facilitate an IEP Team meeting or other IDEA-related meeting. The role of the facilitator is to help the IEP Team members including the parents/adult student and the student (when appropriate) communicate more effectively and efficiently. Facilitation supports early dispute resolution by providing assistance to the IEP Team before a conflict develops into a formal dispute. A facilitator is trained to help IEP Teams collaboratively plan for the IEP Team meeting, focus on key issues and move toward productive outcomes. Because the facilitator is not a member of the IEP Team, he or she can act as a neutral and impartial third-party providing balance, offer an outsider's perspective on the process, and help parties to be heard and understood by the rest of the IEP Team. Note: A facilitator will not be responsible for creating or documenting ~~agreements~~ decisions made by the IEP Team or in any other IDEA related meeting.

Facilitation is offered at no charge to the district or the parent/adult student.

Ch.13 – Section 3: Mediation (pg.210)



A. Definition of Mediation

While Discussions in mediation are not discoverable in pending or subsequent due process hearing or civil proceeding. ~~court process, and~~ Parties are provided an Acknowledgment and Notification of Confidentiality ~~(see the Notification of Confidentiality form in the Documents section of this chapter)~~. Written agreements produced in mediation are legally-binding and enforceable in state or federal court. With the agreement of all parties in the mediation, an IEP may be amended as part of a written agreement.

Ch.13 – Section 3: Mediation (pg.210) Con't



B. Mediation Requests

A request for mediation may be made in person, writing or via telephone by either a parent/adult student or a district representative at any point ~~in~~ when a disagreement occurs about the circumstances of the education of a student by the district ~~dispute~~. The DRC will screen all mediation requests to determine the appropriateness of the mediation process for each individual case. Mediation is automatically offered when a state complaint involving an individual student or a request for a due process hearing has been filed. Mediation cannot be used to delay the state complaint process or a due process hearing timelines unless the parent/adult child and the district agree in writing to extend the 60 day timeline. The complaint timeline cannot be extended beyond 90 days.

Ch.13 – Section 4: State Complaints (pg.211)



C. Methods of Resolving State Complaints

Mediation will be offered ~~in a case~~ by the DRC to the complainant and the district when the complaint involves ~~regarding~~ an individual student. The complainant and the district may resolve all, part or none of the allegations in mediation. If an agreement is reached, the complainant must notify the DRC in writing of the parties agreement. When the DRC receives this notification, any resolved allegations will be dismissed from the state complaint. If all of the state complaint allegations are not resolved, the SDE will investigate the remaining allegations.



C. Filing a Due Process Hearing

All applicable timelines will start when the request has been received by the non-requesting party and the SDE.

1. Due Process Hearing Request from Parent/Adult Student: A due process hearing may be requested on behalf of a student by a parent, adult student, or by an attorney, properly licensed in Idaho, representing the student.
 - a. A due process hearing shall be initiated within two (2) years of the date the parent/adult student knew or should have known of the issues giving rise to the allegation(s). The two-year timeline will not apply if the parent/adult student was prevented from requesting a hearing due to specific misrepresentations or the withholding of information by the public agency required to be provided by the IDEA.
 - b. A due process hearing can be initiated regarding issues pertaining to identification, evaluation, educational placement, or the provision of FAPE if the district proposes to initiate or change any of these matters, or if the district refuses the parent's/adult student's request to initiate or change any of these matters.
 - c. If a parent/adult student disagrees with an IEP or placement change by the district and have filed a written objection to all or parts of the proposed IEP or change in placement in writing within ten (10) calendar days of receiving written notice of the proposed change, the district may not implement the amended IEP for 15 days, unless a request for a due process hearing is filed by the parent/student during which time the student shall remain in the current placement unless otherwise agreed by the district and parent/student. The written objection cannot be used to delay the district from placing a student in an Interim Alternative Educational Setting (IAES) or the implementation of an initial IEP.

Ch.13 – Section 5. Due Process Hearings (pg.217-218)



C. Filing a Due Process Hearing

Due Process Hearing Request by a District: If the district initiates a hearing request, the district must inform the parent/adult student and the SDE. A district may initiate a due process hearing within two years of the dispute in an attempt to accomplish one or more of the following:

- a. override a parent's/adult student's refusal of consent for an initial evaluation or re-evaluation, or release of information;
- b. override a parent's/adult student's written objection to an IEP program change, an educational placement change, or disciplinary actions when there is an imminent threat to safety;
- c. the placement of a student in an Interim Alternate Education Setting (IAES) when there is substantial evidence that maintaining the current educational placement is likely to result in injury to the student or others;
- d. a determination whether an evaluation conducted by the district was appropriate or whether an evaluation obtained by a parent/adult student meets the criteria for a publicly funded Independent Educational Evaluation (IEE);
- ~~e. Resolution if a parent/adult disagrees with an IEP or placement change by the district, where the parent/adult student filed a written objection to the IEP or to all or parts of the proposed change in writing within ten (10) calendar days of receiving written notice of the proposed change, thereby stopping the implementation of the proposed change. If resolution through additional IEP meetings or mediation fails to resolve the disagreement, the district may request a due process hearing to obtain a hearing officer's decision regarding the proposed change. (NOTE: the written objection cannot be used to prevent the public agency from placing a student in an Interim Alternative Educational Setting (IAES) in accordance with the IDEA); or~~
- e. a determination if a proposed IEP is appropriate even if the parent/adult student has not filed a formal objection, for example following a state complaint investigation.



Section 8. Attorney Fees

An IDEA hearing officer appointed by the DRC does not have the authority to consider or award attorney fees.

~~A Only state or federal district court will have~~ has jurisdiction ~~in~~ to consider an award ~~the awarding, determination, or prohibition~~ of attorney fees in and IDEA matter. ~~The court may:~~

~~A. Prohibition of Attorney Fees~~

~~B. Exception to the Prohibition of Attorney Fees~~

~~C. Reduction in the Amount of Attorney Fees~~

~~D. Exception to the Reduction of Attorney Fees~~

~~E. Special Provisions Regarding Attorney Fees~~



Forms



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| <p><u>Idaho Special Education Manual</u></p> <hr/> <h3 style="text-align: center;">Mediation Agreement</h3> <p>Student's Name _____ Date of Birth _____ Sex _____
 Parent's Name _____
 Address _____
 Street _____ City _____ Zip _____
 Phone (Home) _____ (Work) _____ (Cell) _____
 School District or Agency _____
 Address _____
 Street _____ City _____ Zip _____
 Mediator _____ Date(s) of Mediation(s) _____
 Is this Mediation related to a filed complaint? Yes No Complaint # _____
 Participants (List name and title or relationship to student)

 _____</p> <hr/> <p>August 2017</p> | <p><u>Chapter 13: Dispute Resolution</u></p> <hr/> <h3 style="text-align: center;">Notification of Mediation Confidentiality</h3> <p>Mediation is a voluntary, no cost, confidential service provided by the State Department of Education (SDE). Maintaining confidentiality is critical to the integrity of the process. Confidentiality encourages free, open communication toward a collaborative settlement.</p> <p>IDEA requires that all discussions that occur during a mediation will remain confidential and will not be used as evidence in any subsequent due process hearing or civil proceeding [34 CFR 300.506 (b)(5)]. All parties in the mediation will receive a copy of this Notification of Confidentiality.</p> <ol style="list-style-type: none"> The mediator or any prior approved SDE observer cannot be called as a witness or be deposited in any subsequent due process hearing or civil proceeding; In order to maintain the confidentiality of the process, the mediator will collect personal notes of the participants to be destroyed at the conclusion of the mediation session; No recording of the mediation session will be made; The only record retained of the mediation will be the written mediation agreement if one results and this notification of confidentiality. If parties come to an agreement, a copy of the written agreement will be given to both parties and filed with the SDE by the mediator. If for any reason the mediation fails to produce a written agreement, the mediator will inform the SDE that no agreement was reached. However, the mediator will not make any other report to the SDE; The mediator is responsible for collecting and retaining the acknowledgment of mediation and the signed written agreement if one results. The confidentiality of the mediation continues even if an agreement is not reached. <p>NOTIFICATION GIVEN TO:</p>

<p>MEDIATOR: _____ DATE: _____</p> <hr/> <p>August 2017</p> | <p><u>Idaho Special Education Manual</u></p> <hr/> <p><u>Chapter 13: Dispute Resolution</u></p> <hr/> <h3 style="text-align: center;">Form for Filing a State Complaint</h3> <p><i>(File request for a state complaint to the Dispute Resolution Coordinator, State Department of Education, Box 83720, Boise, ID 83720-0027. The alleged violations may not be older than one year (365 days) from the date the complaint is received by the SDE. (You may use this form or submit a letter that includes the above.)</i></p> <p>Personal Information: (type or print)</p> <p>Name of Individual Filing the Complaint: _____</p> <p>_____</p> <p>Zip: _____ Email: _____</p> <p>(Hm) _____ (Wk) _____ (Cell) _____</p> <p>Date of Student: _____</p> <p>District / Agency Complaint Is Against: _____</p> <p>Information: _____ District Information: _____</p> <p>Address: _____ District Contact: _____</p> <p>Address: _____</p> <p>Zip: _____ City: _____ Zip: _____</p> <p>Telephone: _____</p> <p>Parent Attends: _____</p> <p>Date of Birth: _____</p> <p>If involves more than one student, please complete the student and district for each student.)</p> <p>If a homeless child or youth, provide available contact information:</p> <p>_____</p> <p>_____</p> <hr/> <p>August 2017</p> |
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Comment Form



[Link to the 2019 Legislative Session Comment Form](https://www.surveymzmo.com/s3/4310924/2019-Legislative-Session-Special-Education-Manual-Comments)

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Questions?



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Supporting Schools and Students to Achieve

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